

From: ["Arrigoni, Holly"](mailto:Arrigoni.Holly@epa.gov) <Arrigoni.Holly@epa.gov>
To: ["Curtin, James"](mailto:curtin.james@epa.gov) <curtin.james@epa.gov>
Date: 9/8/2017 4:43:54 AM
Subject: FW: Deschutes River TMDL NOI from NWEA
Attachments: Deschutes River TMDL NOI - NWEA.pdf

Jim C,

FOIA exemption (b)(5) ACP



Holly

From: Mann, Laurie
Sent: Thursday, September 07, 2017 6:10 PM
To: Lewicki, Chris ; Arrigoni, Holly ; Havard, James
Cc: Croxton, Dave ; Zell, Christopher
Subject: FW: Deschutes River TMDL NOI from NWEA

Holly, Chris & Jim:
Chris Zell is out of the office today, so Dave C asked me to forward this to you.

From: Byrne, Jennifer
Sent: Thursday, September 07, 2017 2:18 PM
To: Croxton, Dave <Croxton.David@epa.gov>; Zell, Christopher <zell.christopher@epa.gov>; Mann, Laurie <mann.laurie@epa.gov>; Brown, Leah <Brown.Leah@epa.gov>
Subject: FW: Deschutes River TMDL NOI from NWEA

Looks like we got ourselves a(nother) lawsuit!

From: Connery, Shannon
Sent: Thursday, September 07, 2017 2:16 PM
To: Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Byrne, Jennifer <Byrne.Jennifer@epa.gov>
Cc: Stern, Allyn <Stern.Allyn@epa.gov>
Subject: Deschutes River TMDL NOI from NWEA

We received the attached NOI from NWEA regarding the Deschutes River TMDL. If you know of someone else who I should send this to, please let me know.

Sorry for the delay – I was out of the office last week and just found this on my desk in a random pile of stuff, not with my pile of mail.

Thanks,
Shannon

Shannon K. Connery, Paralegal Specialist
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 10
1200 Sixth Avenue, ORC-113
Seattle, Washington 98101-3140
(206) 553-1965



BRICKLIN & NEWMAN LLP
lawyers working for the environment

RECEIVED ON:

AUG 25 2017

EPA Region 10
Office of the Regional Administrator

Reply to: Seattle Office

August 23, 2017

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Scott Pruitt, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Jefferson Beauregard Sessions III, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Re: Notice of Intent to Sue for Failure to Perform Mandatory Duties Pursuant to the Clean Water Act Relating to Washington's Proposed Deschutes River, Percival Creek, and Budd Inlet Tributaries TMDL

Dear Mr. Pruitt and Mr. Sessions:

This letter provides notice that Northwest Environmental Advocates ("NWEA") intends to sue the U.S. Environmental Protection Agency ("EPA") under Section 505(a)(2) of the Clean Water Act ("CWA") for failure to approve or disapprove Washington's Deschutes River, Percival Creek, and Budd Inlet Tributaries Temperature, Fecal Coliform, Bacteria, Dissolved Oxygen, pH, and Fine Sediment Total Maximum Daily Load (Washington Department of Ecology Publication No. 15-10-012, available at <https://fortress.wa.gov/ecy/publications/documents/1510012.pdf>). We refer to this document as the "Deschutes River TMDL."

Washington submitted the Deschutes River TMDL to EPA in December of 2015. More than thirty days have elapsed since that time, but EPA has yet to either approve or disapprove the proposed TMDL as required by Section 303(d)(2) of the CWA, 33 U.S.C. § 1313(d)(2). That section provides, in part, that "[t]he Administrator shall either approve or disapprove [a TMDL] not later than thirty days after the date of submission."

Scott Pruitt, EPA Administrator
Jefferson Beauregard Sessions III, Attorney General
August 23, 2017
Page 2

Section 505 of the CWA provides that any citizen may sue EPA in federal court "where there is alleged a failure of the Administrator to perform any act or duty under [the CWA] which is nondiscretionary with the Administrator." 33 U.S.C. § 1313(a)(2). In such a case, the District Court has jurisdiction to order the EPA Administrator "to perform such act or duty." *Id.*

Because the EPA has failed to either approve or disapprove Washington's Deschutes River TMDL within 30 days of the state's submission, NWEA intends to sue the EPA in federal court to enforce the requirements of Section 303(d)(2) of the CWA, and to require EPA to act in a timely fashion.

As required by 40 C.F.R. § 135.3(b), the following are the name, address, and telephone number of the party providing this notice:

Northwest Environmental Advocates
P.O. Box 12187
Portland, OR 97212-0187
(503) 295-0490

As required by 40 C.F.R. § 135.3(c), the following are the name, address, and telephone number of NWEA's legal counsel in this matter:

Bricklin & Newman, LLP
Bryan Telegin, WSBA No. 46686
1424 Fourth Avenue, Suite 500
Seattle, WA 98101
Tel: (206) 264-8600
Email: telegin@bnd-law.com

Earthrise Law Center
Allison LaPlante, OSB No. 023614
Lia Comerford, OSB No. 141513
10015 Terwilliger Blvd.
Portland, OR 97210
Tel: (503) 768-6894
Email: laplante@lclark.edu; comerfordl@lclark.edu

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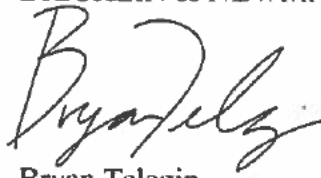
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Scott Pruitt, EPA Administrator
Jefferson Beauregard Sessions III, Attorney General
August 23, 2017
Page 3

NWEA is open to engaging in a constructive dialogue to obtain a workable solution in this matter. If EPA has a similar interest it should immediately contact me as NWEA's counsel. Please expect NWEA to file suit upon the expiration of 60 days from the date of this notice.

Very truly yours,

BRICKLIN & NEWMAN, LLP

A handwritten signature in black ink, appearing to read "Bryan Telegin", written over the printed name.

Bryan Telegin

cc: Client

Michelle Pirzadeh, Acting Regional Administrator
U.S. Environmental Protection Agency, Region 10
1200 6th Avenue
Seattle, WA 98101